

Defendants.

: AFFIDAVIT OF TODD
: BARON

4. Condor works with automobile dealers in approximately thirty different states to provide financing for “subprime” or “non-prime” customers who cannot obtain automobile loans

with prime lenders. The automobile dealers with whom Condor works submit credit applications from potential automobile purchasers to one or more possible lenders, such as Condor, who then provide the dealers with a quotation for the terms of the requested loan. The automobile dealers then make the loan and assign it to the selected lender or finance company.

5. Because Condor's customers are generally classified as "subprime" or "non-prime," meaning that they lack adequate credit or resources to borrow money to finance the purchase of an automobile, Condor views itself as providing an invaluable service to a large population of people who would otherwise not be able to own an automobile – a necessity in many parts of the country.

6. Condor currently holds more than 8,000 such loans to New York State residents, who if it weren't for the services provided by lenders such as Condor, would not be able to own their own cars.

7. Condor's website was not deceptively programmed so as to mislead its customers about the existence of a positive credit balance and Condor has not taken any action to "actively impede" its customers' ability to detect positive credit balances. Indeed, there are several other ways a customer could obtain this and other loan-related information.

8. Condor's customers have several options for accessing account information relating to their loans. Condor's customers can sign up to use Condor's web portal or can call the toll-free customer service number and speak with a customer service representative any time they require loan-related information.

9. Use of Condor's website to access loan-related information such as account balances and payment history is completely voluntary. Each customer has the option to register with our website and access their account information online, however not all of Condor's

customers use the web portal or rely on Condor's website for loan-related information. The fact that a customer's account information may not be available through Condor's website does not make it impossible for a customer to obtain information about his or her loan or to detect a positive credit balance. Condor's customers can obtain this same information by calling the customer service number.

10. Condor has never maintained a "policy" of refusing to refund positive credit balances.

11. Condor has not stolen its customers' positive credit balances for its own use.

12. Condor has never actively concealed from its customers the existence of positive credit balances nor has Condor ever deceptively programmed its customer-facing web portal to shut down a customer's access to his or her loan account.

13. Condor takes every precaution to protect its customers' personal information. Condor's website uses a secure SSL (Secure Sockets Layer) certificate from Verisign. VeriSign is the leading SSL Certificate Authority enabling secure e-commerce and communications for Web sites. Verisign is the trusted mark of high assurance for Internet security and enables the strongest SSL encryption available to every site visitor.

14. To my knowledge, none of Condor's more than 8,000 New York State customers has ever had his or her private and confidential financial information stolen from Condor's website or from Condor's offices.

15. Condor is currently taking steps to make sure that its customer's confidential information is more secure.

16. Condor has over 70 employees who work in sales, credit, or funding, whose sole job is working on the acquisition and processing of new loans. All of these employees, and in

particular the sales employees, rely on commissions and incentives from new loans as part of their income. If Condor is unable to originate new business, it will be forced to lay off these employees.

17. Presently, there are a number of government agents monitoring all activity at Condor. The agents have prohibited me from accessing my computer and other information without their oversight, even when doing so at the direction of my attorney.



Todd Baron

Sworn to before me this
28 day of April, 2014


Notary Public

PATRICIA A. YASPARRO
Notary Public, State of New York
No. 01YA5046870
Qualified in Nassau County
Commission Expires 07/17/ 2015